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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,259	05/25/2001	Fumihiko Hayashi	Q62964	3213

7590 12/16/2002

SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER

PHAM, HOAI V

ART UNIT

PAPER NUMBER

2814

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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11

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

See attachment

HP  
Hoai Pham

## DETAILED ACTION

### *Election/Restrictions*

1. Newly submitted claims 23-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Applicant has elected for prosecution on the merits the species of figures 11-12 on Paper # 6. The newly submitted process claim 23 has many limitations which do not read on the figures 11-12 such as said isolation insulating film having a plurality of openings, each of said openings having a rectangular shape being elongate in a first direction, said openings being arranged in a second direction crossing said first direction; forming a plurality of floating gates sandwiched between said word lines and said tunnel insulating films, said floating gates being arranged at intersections of said openings and said word lines; removing said isolation insulating film and said tunnel insulating film at said source area to expose said semiconductor substrate having an uneven surface ... Therefore, newly submitted claims 23-30 are not under consideration since they drawn to non-elected subject matter.

2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, newly submitted claims 23-30 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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Art Unit: 2814

3. The amendment filed on 9/26/02 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

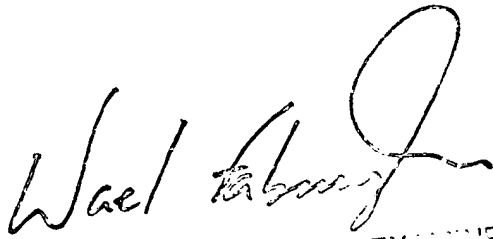
4. Since the above mentioned reply appears to be *bona fide* attempt to reply, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME LIMIT MAY BE GRANTED UNDER 37 CFR 1.136(a).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V Pham whose telephone number is 703-308-6173. The examiner can normally be reached on 6:30A.M. - 6:00P.M..

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on 703-308-4918. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

HP  
Hoai Pham  
December 9, 2002

  
SUPERVISORY PRIMARY EXAMINER  
TECHNOLOGY CENTER 2000